

Charities, gifting and inheritance tax

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In 1789 Benjamin Franklin famously said, ‘Nothing is certain except death and taxes’. To date, this is still very much true. We get taxed on our earnings and gains during our lifetime, and upon death, tax may apply to the wealth we’ve built up during our lifetime in the form of inheritance tax.

Inheritance tax may apply to your estate if your assets exceed the available thresholds. The maximum available threshold per person is currently £500,000. The individual threshold is broken down into two components, the general threshold (known as the nil rate band) being £325,000 together with an additional threshold (known as the residential nil rate band) of up to £175,000 for anyone leaving their home (or proceeds from the sale of their home on or after 8 July 2015) to their direct lineal descendants without restriction. These thresholds have been frozen until at least April 2028. There are also some restrictions or criteria which must be met in order to qualify for the residential nil rate band.

For married couples, on the death of the second spouse, the executors of the last spouse to die may be able to claim some or all of the first spouse’s unused thresholds, making potentially up to £1,000,000 free from inheritance tax passing to your children/grandchildren before tax is applied at 40 per cent to the balance of your estate.

Certain exemptions and reliefs are available to limit inheritance tax liability on your estate, and in this article, we will be focusing on gifts to charities.

Gifts made to qualifying charities during a person’s lifetime or on their death via their will are exempt from inheritance tax. A qualifying charity is one that is established for charitable purposes only, which satisfies jurisdiction, registration and management conditions, and

is established in the European Union or other specified countries.

Since 6 April 2012, if someone leaves at least 10 per cent of their net estate to charity, their estate may qualify to pay inheritance tax at a reduced rate of 36 per cent. Gifts can be a cash sum, specific items, property, or the residue of someone’s estate. The gifts to the charities named in your will can pass tax-free, while the remainder of your estate passing to family and friends (non-exempt beneficiaries) will attract tax at this reduced rate. The net effect is that more of your estate can pass to charity, and less will go to HM Revenue & Customs.

In the Spring Budget, the Government restricted charitable tax reliefs so that from April 2024, charities in the European Union (EU) and the European Economic Area (EEA) will no longer qualify for charity tax relief, and the relief only applies to UK Charities and Community Amateur Sports Clubs. Clearly, the government policy behind this is that “charity begins at home”, as the saying goes.

If you have left legacies to charities in the EU or EEA in your Will, you should consider whether it will be necessary for you to update your Will to reflect the changes. This is especially important if you want to pay inheritance tax at a reduced rate.

There are many great charities in the UK doing some fantastic work in supporting worthy causes, and you can usually find a charity working in an area close to your heart, whether that is one that supports children, animals, cancer, homelessness or something not so mainstream. You can carry out a [search for a registered charity here](#).

For the more wealthy, setting up their own charitable foundation has become more popular in recent years.

Those interested in philanthropy and directing their wealth at a specific cause or concern will need legal assistance to help them set this up and get a structure in place. We can help with this...

Speak to private client solicitor Herman Cheung today.

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Note: This article is not legal advice; it provides information of general interest about current legal issues.

